

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

JAMES BOYD,)
vs.)
Plaintiff,)
vs.) NO. CIV-07-1182-D
RYMES DUNCAN,)
Defendant.)

O R D E R

Plaintiff, a prisoner currently incarcerated in Red Onion State Prison in Pound, Virginia, brought this civil rights action pursuant to 42 U.S.C. §1983. Appearing *pro se*, Plaintiff also sought leave to proceed *in forma pauperis*. In accordance with 28 U.S.C. §636(b)(1)(B), the matter was referred to Magistrate Judge Bana Roberts for initial proceedings. In a November 9, 2007 Order, the Magistrate Judge directed Plaintiff to cure certain deficiencies in his Motion to Proceed *In Forma Pauperis*; Plaintiff failed to comply and, instead, filed two additional deficient motions seeking *in forma pauperis* status.

On December 21, 2007, the Magistrate Judge filed a Report and Recommendation [Doc. No. 9] in which she recommended that the Court dismiss this action without prejudice to its refiling because of Plaintiff's failure to comply with Court orders. She also noted that Plaintiff has not clearly stated a basis for jurisdiction in this Court, and he has also filed motions naming a defendant other than the defendant sued in this action.

In the Report and Recommendation, the Magistrate Judge advised Plaintiff of his right to

object to the findings and recommendation set forth therein. She further advised him that his failure to timely object would constitute a waiver of his right to appellate review of the factual and legal matters in the Report and Recommendation. Plaintiff's deadline for filing objections was January 10, 2008.

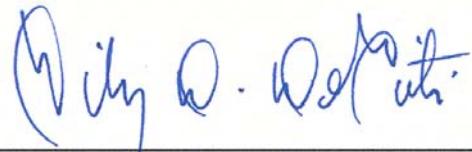
On January 15, 2008 the Court received a handwritten document submitted on a Virginia Department of Corrections form entitled "Regular Grievance." [Doc. No. 10]. The form is signed by Plaintiff and is dated January 7, 2008. Construing this document most liberally in Plaintiff's favor, the Court will consider it as a timely objection to the Report and Recommendation. Therefore, the Court has conducted a *de novo* review.

The record in this case reflects that Plaintiff has failed to respond to the Court order directing him to correct the deficiencies in the *in forma pauperis* motion. Furthermore, his subsequent motions contain the same deficiencies. Plaintiff has made no attempt to correct the motions, and has offered no explanation for his failure to do so. In the "Regular Grievance" form submitted to the Court, he does not address this issue. In fact, his comments on that form appear to discuss a lawsuit involving Plaintiff and someone who is not a party to this action.

As the Magistrate Judge correctly notes, a party's failure to comply with deadlines and orders interferes with the Court's ability to manage and control its caseload; where the party's conduct constitutes such interference, dismissal is warranted. United States v. Jiminez, 400 F.3d 853, 855 (10th Cir. 2005); Green v. Dorrell, 969 F.2d 915, 917 (10th Cir. 1992). Accordingly, having reviewed the matter *de novo*, the Court finds that the Magistrate Judge correctly concluded that dismissal is proper under these circumstances. Therefore, the Report and Recommendation [Doc.

No. 9] is adopted. This action is dismissed without prejudice to the filing of a new action.

IT IS SO ORDERED this 22nd day of January, 2008.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE